

# Office of the State Public Defender

## Administrative Policies

Subject: <b>Contract Counsel</b>	Policy No.: <b>130</b>
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### 1.0 POLICY

- 1.1 The Office of the State Public Defender (OPD) may enter into contracts with outside counsel to provide services pursuant to the Montana Public Defender Act (Act).
- 1.2 District court judges, the Supreme Court Administrator, and the counties may not contract for public defender/indigent defense services in those cases deemed the responsibility of the OPD under the Act.
- 1.3 State contracts are viewed as a cost-effective manner in which to ensure that public defender/indigent defense services are available in those areas where full time staff public defender services are unavailable, when conflict situations arise, or to alleviate workload issues.

### 2.0 PROCEDURE

- 2.1 Prospective contract counsel must complete the Attorney's Summary of Education and Experience as provided on the OPD website at <http://publicdefender.mt.gov>.
- 2.2 Upon receipt of the Attorney's Summary of Education and Experience information, the OPD will review this information and provide qualified applicants with a Memorandum of Understanding (MOU).
- 2.3 Prospective contract counsel acknowledge that they have read and agree to abide by the Public Defender Standards of Conduct by signing the MOU and returning it to the OPD. The MOU also requires that contract counsel complete Continuing Legal Education training annually, as determined by the Public Defender Commission.
- 2.4 Prospective contract counsel are then placed in a pool based on their qualifications and the Region(s) in which they choose to work.
- 2.5 The Regional Deputy Public Defender is responsible for assigning specific cases to attorneys from the regional pool, ensuring that the attorney has the qualifications to handle the specific type of case being assigned.
- 2.6 The Regional Deputy Public Defender will monitor the performance of the contract counsel and will participate in the annual proficiency determination of each contract counsel.

### 3.0 PAYMENTS FOR SERVICES

- 3.1 The OPD shall directly pay contracted counsel for services rendered.
- 3.2 Contract counsel services shall be paid at the rate of \$60 per hour for non-death penalty cases, and at the rate of \$120 per hour for death penalty cases.
- 3.3 Pre-approved travel expenses shall be paid at the state travel rates.

- 3.4 OPD shall offer a stipend of up to \$25 per month to help defray office costs such as telephone, postage, and copies.
- 3.5 Other expenses shall be paid as pre-approved under OPD procedures.

#### 4.0 PAYMENT AND PROCEDURES

It is understood that contract counsel services will be supervised by the Regional Deputy Public Defender and the OPD.

Contracted counsel shall submit an itemized claim on the standard payment form provided by OPD. This form and accompanying instructions are posted on the OPD web site at <http://publicdefender.mt.gov>. Hourly time shall be broken down into six minute increments. Each form **must** contain the case number **assigned** by the Regional Office. Said form shall be submitted to the supervising Regional Deputy Public Defender for review, who shall within five (5) days review and forward the claim to the State Office. The OPD will review, approve and pay said claim within thirty (30) days of receipt of the same. Payment may be delayed if the claims are returned for corrections, clarification or for failure to include the **assigned** case number.

#### 5.0 CLOSING

Questions about this policy should be directed to OPD at the following address:

Office of the State Public Defender  
Administrative Service Division  
44 West Park  
Butte, MT 59701  
Phone 406-496-6080